



No. 22

January 15, 2014

## H.R. 3547 – Vehicle for the Consolidated Appropriations Act, 2014

### Noteworthy

- **Background:** The Consolidated Appropriations Act for fiscal year 2014 was released on January 13, 2014, as a House amendment to the Senate amendment to H.R. 3547. This omnibus bill would complete the appropriations process for fiscal year 2014, funding the federal government through September 30, 2014. Under H.J.Res. 106, the short-term continuing resolution (CR) passed by the House on January 14 and by the Senate on January 15, the federal government is funded through Saturday, January 18, 2013.
- **Floor Situation:** The House passed the omnibus by a vote of 359-67 on January 15. The Senate will consider the omnibus this week.
- **Executive Summary:** The omnibus would fund the federal government at a base discretionary level of \$1.012 trillion. This is consistent with December's Ryan/Murray budget deal, the Bipartisan Budget Act. CBO [reports](#) that after adding funding that is not subject to the Budget Control Act's spending caps, total funding in the bill is \$1.111 trillion. This additional spending includes \$91.9 billion in Overseas Contingency Operations, \$5.6 billion in disaster relief and \$924 million in program integrity initiatives.

### Overview

The Consolidated Appropriations Act funds the federal government through September 30, 2014. It provides \$1.012 trillion in base discretionary funding, consistent with the Bipartisan Budget Act (BBA) enacted in December 2013. The total limit on base discretionary appropriations is actually the sum of two smaller caps in law. The Function 050 (defense) cap was set at \$520.464

billion in the BBA, and the omnibus provides exactly this amount of budget authority. The nondefense cap was set at \$491.773 billion, and the omnibus provides this exact amount as well.

The \$1.012 trillion contained in the omnibus is a decrease from the \$1.043 trillion pre-sequester funding level for fiscal year 2013. It is also a decrease from the original, pre-sequester Budget Control Act amount for fiscal year 2014 of \$1.058 trillion. The omnibus funding level is an increase from the 2013 post-sequester funding level of \$988 billion and the 2014 post-sequester BCA spending caps of \$967.5 billion. The federal government is currently operating under a CR that funds operations at an annualized rate of \$986.6 billion.

The omnibus contains \$17.9 billion in Changes in Mandatory Programs (CHIMPS) for fiscal year 2014. This level is \$497 million lower than the current level in the fiscal year 2014 CR, P.L. 113-46.

## **Bill Provisions**

### **Division A – Agriculture, Rural Development, FDA and Related Agencies**

Division A contains total funding of \$20.9 billion in base discretionary funding, an increase of \$350 million above the fiscal year 2013 enacted level, and nearly \$1.4 billion above the 2013 post-sequester level. The Department of Agriculture is funded at \$18 billion.

Notable provisions include:

- Provides \$3.5 million for the Rural Energy for America Program, which promotes energy efficiency and renewable energy development for agricultural producers and rural small businesses. This amount is \$16 million less than the President's budget.
- Provides \$6.7 billion to carry out the Special Supplemental Nutrition Program for Women, Infants, and Children, \$426 million less than the President's budget.
- Contains mandatory spending of \$82.2 billion to carry out the Supplemental Nutrition Assistance Program, also known as food stamps.
- Prohibits use of funds to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's budget submission to Congress for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the budget unless such budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted.
- Prohibits use of funds by an executive branch agency to produce any prepackaged news story intended for broadcast or distribution in the United States unless the story includes a clear notification that it was prepared or funded by that agency.
- Prohibits use of funds for reclassifying any area eligible for rural housing programs as not eligible for such programs.

- Prohibits use of funds to promulgate final rules required under the livestock title of the Food, Conservation and Energy Act of 2008 unless the combined annual cost to the economy of such rules does not exceed \$100 million.
- Restricts the Grain Inspection, Packers and Stockyards Administration from implementing regulations that allow federal government intrusion into the private market for livestock and poultry.

### **Division B – Commerce, Justice, Science and Related Agencies**

Division B contains total funding of \$51.6 billion in base discretionary funding, an increase of \$1.4 billion above the fiscal year 2013 enacted level, and nearly \$4.6 billion above the 2013 post-sequester level. The Department of Commerce receives \$8.17 billion. The Department of Justice receives \$27.4 billion, although the scored total for DOJ is \$17.77 billion due to CHIMPS reducing the discretionary total.

Notable provisions include:

- Provides \$8.3 billion for the Federal Bureau of Investigation, \$232 million above the 2013 pre-sequester level.
- NASA receives \$17.6 billion, \$120 million above the 2013 pre-sequester level.
- The National Oceanic and Atmospheric Administration is funded at \$5.3 billion, \$310 million above the 2013 pre-sequester level.
- The National Science Foundation is funded at \$7.2 billion, \$82 million below the 2013 pre-sequester level.
- Provides \$850 million for the National Institute of Standards and Technology, a \$41 million increase over the 2013 pre-sequester level.

### **Division C – Defense**

Division C contains total funding of \$486.9 billion in base discretionary funding, an increase of \$470 million above the 2013 post-sequester level.

Notable provisions include:

- Title X amends the changes made by the budget deal to the annual cost-of-living adjustment (COLA) for certain military retirees. Section 403 of that bill reduced the COLA by one percent for retirees under the age of 62. Then, when these retirees reach age 62, their monthly retired pay would be readjusted as if this COLA reduction had not taken place, and they would receive the full COLA thereafter. CBO reported this provision will save \$6.2 billion over 10 years. Title X of the omnibus makes this adjustment inapplicable to certain disabled military retirees and to those receiving annuity payments pursuant to the Survivor Benefits Program. It is estimated this costs \$573 million over 10 years, compared to current law, although there is no scored cost for fiscal year 2014 and fiscal year 2015.
- Section 8110 prohibits the transfer or release of Guantanamo detainees into the United States. Section 8112 prohibits the use of funds to construct or modify facilities in the United States for the purpose of receiving Guantanamo detainees. Similar prohibitions are contained in other divisions of this bill as applied to other departments and agencies.

### **Division D – Energy and Water Development and Related Agencies**

Division D contains total funding of \$34 billion in base discretionary funding, an increase of \$777 million above the fiscal year 2013 enacted level, and \$3 billion above the 2013 post-sequester level. The Department of Energy is funded at nearly \$27.3 billion, which includes \$10 billion for energy programs, \$11.2 billion for the National Nuclear Security Administration, and \$5 billion for Defense environmental cleanup. The Army Corps of Engineers receives nearly \$5.5 billion. The Department of the Interior receives \$1.06 billion, primarily for the Bureau of Reclamation.

Notable provisions include:

- Provides \$1.9 billion for energy efficiency and renewable energy activities at the Department of Energy, \$864 million less than the President's budget.
- Provides \$147 million for electricity delivery and energy reliability activities at the Department of Energy, \$22 million less than the President's budget.
- Provides \$889 million for nuclear energy activities at the Department of Energy, \$154 million greater than the President's budget.
- Provides \$562 million for fossil energy research and development activities at the Department of Energy, \$141 million greater than the President's budget.
- Provides \$5 billion for science activities at the Department of Energy, \$82 million less than the President's budget.
- Provides \$280 million for the Advanced Research Projects Agency – Energy, \$99 million less than the President's budget.
- Provides \$305 million for the Federal Energy Regulatory Commission, equal to the President's budget.
- Provides \$1 billion for the Nuclear Regulatory Commission, equal to the President's budget.
- Prohibits the Department of Energy from forcing manufacturers to stop producing incandescent light bulbs.
- Maintains funding to finish the third volume of the Yucca Mountain Safety Evaluation Report.

### **Division E – Financial Services and General Government**

Division E contains total funding of \$21.9 billion in base discretionary funding, an increase of \$600 million above the fiscal year 2013 enacted level, and \$1.7 billion above the 2013 post-sequester level. The Department of the Treasury is funded at \$11.9 billion.

Notable provisions include:

- The Internal Revenue Service is funded at \$11.3 billion, which is \$526 million below 2013's pre-sequester level and \$92 million above the post-sequester level. The three main accounts at the IRS (Taxpayer Services, Enforcement, and Operations Support) are all funded at the 2013 post-sequester levels.
- In response to the IRS scandal, section 107 prohibits the IRS from targeting any citizen for exercising his or her First Amendment rights.

- Section 741 prohibits the Vice President and senior political appointees in the executive branch from receiving a pay raise in calendar year 2014.
- The legislation provides \$48 million for the SOAR Act. Included in this amount is \$16 million for scholarships to low-income students in DC to attend private schools, \$13.8 million above the request and the Senate level.
- Requires Treasury's Office of Financial Research, created by the Dodd-Frank law to support the Financial Stability Oversight Council, to submit quarterly reports to Congress. Also requires the Office of Financial Stability, which manages the Troubled Asset Relief Program, to submit quarterly reports. Funding for these agencies falls outside annual congressional review.
- Requires OMB to submit a detailed report on the costs of implementing Dodd-Frank.
- Requires the U.S. Postal Service to maintain Saturday delivery.

#### **Division F – Homeland Security**

Division F contains total funding of \$39.3 billion in base discretionary funding, a decrease of \$336 million from the fiscal year 2013 enacted level, and \$1.47 billion above the 2013 post-sequester level. Customs and Border Protection is funded at \$10.6 billion, Immigration and Customs Enforcement receives \$5.3 billion, and the Transportation Security Administration receives \$4.9 billion.

Notable provisions include:

- \$9.98 billion to the Federal Emergency Management Agency (FEMA), \$5.6 billion of which designated for disaster relief for the purposes of budgetary treatment under the Balanced Budget and Emergency Deficit Control Act.
- Includes a provision to delay, for the duration of the omnibus, premium increases in section 1308(h) of the National Flood Insurance Program related to a premium adjustment to reflect current risk of flood.
- Border Patrol agents remain at previous levels (21,370 agents) while the number of CBP officers increases by 2,000 (23,775 total).
- ICE is required to maintain 34,000 detention beds.
- Prohibits the transfer of firearm by a federal law enforcement officer to a drug cartel agent.

#### **Division G – Interior, Environment and Related Agencies**

Division G contains total funding of \$30.1 billion in base discretionary funding, an increase of \$231 million above the fiscal year 2013 enacted level, and \$1.4 billion above the 2013 post-sequester level. This division provides \$10.4 billion for the Department of the Interior.

Notable provisions include:

- Provides \$957 million for the Bureau of Land Management's management of lands and resources, \$23 million below the President's budget.
- Provides \$1.2 billion for the U.S. Fish and Wildlife Service's management of resources, \$107 million below the President's budget.

- Provides \$2.2 billion for the National Park Service's management, operation, and maintenance of national parks, \$48 million below the President's budget.
- Provides \$1 billion for the U.S. Geological Survey to conduct surveys, investigations and research covering topography, geology, hydrology, biology, and the mineral and water resources of the U.S. This is \$135 million below the President's budget.
- Provides \$167 million for the Bureau of Ocean Energy Management's management of ocean energy resources, \$2.5 million below the President's budget.
- Provides \$150 million for the Office of Surface Mining Reclamation and Enforcement, \$7 million greater than the President's budget.
- Provides \$27 million for the Abandoned Mine Reclamation Fund, \$614,000 below the President's budget.
- Provides \$741 million for wildland fire management, \$56 million greater than the President's budget.
- Provides \$92 million for large fire suppression operations, equal to the President's request
- Requires collection of nonrefundable inspection fees from offshore energy operators to fund offshore safety and environmental enforcement.
- Authorizes implementation of an oil and gas leasing Internet program under which lease sales may be conducted through methods other than oral bidding.
- Provides \$759 million for the Environmental Protection Agency's science and technology functions, \$25 million below the President's budget.
- Provides \$2.6 billion for the Environmental Protection Agency's environmental programs and management, \$189 million below the President's budget.
- Provides \$1.5 billion for the Forest Service's management of the National Forest System, \$60 million below the President's budget.
- Prohibits use of funds for any activity or the publication or distribution of literature that promotes public support or opposition to a legislative proposal on which congressional action is not complete.
- Requires a report on all federal agency funding, domestic and international, for climate change programs, projects, and activities in fiscal years 2013 and 2014, including an accounting of funding by agency, and including citations and links to each strategic plan that is driving funding.
- Prohibits use of funds for promulgating or implementing any regulation requiring the issuance of permits under title V of the Clean Air Act for carbon dioxide, nitrous oxide, water vapor, or methane emissions resulting from biological processes associated with livestock production.
- Prohibits use of funds for implementing any provision in a rule that requires mandatory reporting of greenhouse gas emissions from manure management systems.
- Prohibits use of certain funds for construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the U.S., with exceptions.

#### **Division H – Labor, Health and Human Services, Education and Related Agencies**

Division H contains total funding of \$156.8 billion in base discretionary funding, \$100 million less than the fiscal year 2013 enacted level, and \$6.46 billion above the 2013 post-sequester

level. Health and Human Services is funded at \$66.3 billion, the Department of Labor is funded at \$12.1 billion, and the Department of Education receives \$67.3 billion.

Notable provisions include:

#### Obamacare

- The bill *does not* provide new funding for the federal exchange.
- Allocates Prevention and Public Health Fund funds to prevention programs determined by the Labor-HHS-Education Subcommittee.
- Includes the same funding level for CMS Program Management as fiscal year 2013 post-sequester. The bill does not provide the President's requested funding increase for the Affordable Care Act (ACA).
- Includes the same funding level for the Secretary's operations account as fiscal year 2013 post-sequester. The bill does not provide the President's requested funding increase for the ACA.
- Rescinds \$10 million from the Independent Payment Advisory Board.
- Includes \$71 million – an increase of \$23.5 million over current levels – to strengthen Office of the Inspector General oversight of HHS programs, including the ACA.
- Nonrecurring Expenses Fund (NEF). Starting in FY2013, HHS had the authority to transfer unobligated balances from expired accounts into NEF for nonrecurring capital acquisitions such as IT procurements. Last year, however, HHS dedicated over \$500 million to ACA IT related activities. The bill includes report language requiring HHS to identify and incorporate the total amount of expired unobligated balances available to be transferred into the Nonrecurring Expenses Fund into its fiscal year 2015 budget justification.
- Includes report language requiring the Office of the Inspector General to develop a plan on how it will conduct ACA oversight activities.
- Requires the HHS Secretary to provide Congress specific details on how much money is being used for the federal exchange. At a minimum, the information must include the ACA section that was funded, the dollar amount, the programs supported, and amount of funding used to implement the federal exchange under each program.
- Requires the HHS Secretary include, in the agency's fiscal year 2016 budget justification, an analysis explaining how section 2713 (preventative and public health services) of the Public Health Service Act will affect individuals' eligibility for HHS discretionary programs.
- Requires HHS publish a report on the Department's website detailing how many federal employees and contractors the agency currently has and plans to employ in the future to implement the ACA.

#### HHS

- Funds the Centers for Disease Control and Prevention at \$5.9 billion – \$450.4 million above fiscal year 2013 post-sequester. CDC also will receive \$831.3 million from the health care law's Prevention and Public Health Fund.
- Funds National Institutes of Health at \$29.9 billion – \$827.4 million above fiscal year 2013 post-sequester.

- Funds the Office of the Secretary at \$458.1 million. Specifically, abstinence education receives \$5 million.
- Funds the Public Health and Social Service Emergency Fund at \$1.2 billion, \$273 million above fiscal year 2013 post-sequester). PHSSEF includes the following programs:
  - Biomedical Advanced Research and Development Authority (\$415 million);
  - Project Bioshield (\$255 million); and
  - Pandemic Influenza Preparedness (\$115 million).

### Education

- Funds Title I ESEA basic grants to local school districts at \$14.4 billion, an increase of \$629 million above the 2013 post-sequester level.
- Using a combination of discretionary and mandatory funds, provides for a maximum Pell Grant award of \$5,730, increased from last year by separate legislation. The omnibus provides \$22.8 billion discretionary funding for Pell Grants, consistent with the fiscal year 2013 level.
- Part B IDEA special education grants to states are funded at \$11.5 billion in the legislation, \$498 million above the fiscal year 2013 post-sequester level.
- Includes \$250 million for Race to the Top, a decrease of \$270.2 million below fiscal year 2013 post-sequester. Includes language for a new program that the Secretaries of Education and Health and Human Services shall use all funds to make competitive awards to states for improving early childhood care and education, and such awards may be limited to build capacity to develop or expand high quality preschool programs.
- Provides \$75 million for new Obama Administration First in the World program to provide grants to higher education institutions to support college affordability and completion efforts.

### Labor

- Provides \$10.4 billion for the Employment Training Administration, a decrease of \$562 million from the fiscal year 2013 enacted level. Increases Governor's Reserve Set-Aside from five percent to 8.75 percent.
- Provides \$269.5 million for Veterans Employment and Training Service, \$18.9 million above the fiscal year enacted level post-sequester. Includes \$14 million for the Transition Assistance Program to help new veterans transition to civilian employment.
- Prohibits the Department of Labor from moving forward on its original Fiduciary Rule.
- Funds the Occupational Safety and Health Administration (OSHA) at \$552.2 million, \$17 million above fiscal year 2013 post-sequester. The bill continues the exemption of small farming operations from OSHA regulation. New report language is included to clarify that the long-standing OSHA exemption from regulating farms shall apply to farm post-harvest activities.

### Related Agencies

- Includes \$274.2 million for the National Labor Relations Board, a decrease of \$4 million from fiscal year 2013 levels. Also continues a provision intended to stop implementation of "e-Card Check" regulation intended to permit electronic voting.



### **Division I – Legislative Branch**

Division I contains total funding of \$4.26 billion in base discretionary funding, a decrease of \$19 million from the fiscal year 2013 enacted level, and \$197 million above the 2013 post-sequester level. Senate operations are funded at \$857 million, House operations are funded at \$1.18 billion, and the Capitol Police are funded at \$338 million.

Notable provisions include:

- The bill includes a payment of \$174,000 to Beverly A. Young, widow of the late Representative C.W. "Bill" Young.

### **Division J – Military Construction, Veterans Affairs and Related Agencies**

Division J contains total funding of \$73.3 billion in base discretionary funding. This includes \$9.8 billion for military construction and \$63.2 billion for the Department of Veterans Affairs.

### **Division K – State, Foreign Operations and Related Programs**

Division K contains total funding of \$42.5 billion in base discretionary funding.

Notable provisions include:

- **Egypt:** Section 7041 provides that assistance funds may only be made available to Egypt if the Secretary of State certifies Egypt is sustaining the strategic relationship with the United States and is meeting its obligations under its peace treaty with Israel. It goes on to provide that certain funds may be provided incrementally to Egypt upon a certification that Egypt has held a constitutional referendum, followed by parliamentary and presidential elections, and that the newly elected government is taking steps to govern democratically.
- **Libya:** Section 7041 further provides that no assistance funds may be made available to Libya until the Secretary of State certifies Libya is cooperating with U.S. efforts to bring to justice those responsible for the Benghazi attack.
- **Palestinian Authority:** Section 7041 also provides that Economic Support Funds may not be provided to the Palestinian Authority if, after enactment, the Palestinians obtain the same standing as member states in the United Nations or any of its specialized agencies outside of an agreement with Israel, or they initiate an action in the International Criminal Court subjecting Israeli nationals to an investigation for alleged crimes against Palestinians.
- **Afghanistan:** Section 7044 prohibits certain assistance funds being provided to Afghanistan until the Secretary of State certifies, among other things, credible elections have taken place in Afghanistan, and Afghanistan has signed a Bilateral Security Agreement with the United States. It goes on to provide that assistance funds to Afghanistan shall be reduced by five dollars for every dollar Afghanistan imposes in taxes, duties, penalties, or fees on the transport of U.S. property entering or leaving Afghanistan.

### **Division L – Transportation, Housing and Urban Development, and Related Agencies**

Division L contains total funding of \$50.86 billion in base discretionary funding, a decrease of \$961 million below the fiscal year 2013 enacted level, and \$2.4 billion above the 2013 post-sequester level. The Department of Transportation receives \$17.65 billion in discretionary funding, and \$53.5 billion in obligation limitation (contract authority provided through transportation authorization bills). The Department of Housing and Urban Development is funded at \$32.8 billion in discretionary funding.

Notable provisions include:

- \$41 billion in obligation limitation funding for the Federal Highway Program. This is the level authorized in MAP-21, which expires in September 2014. It is an increase of \$557 million from 2013.
- \$12.4 for the Federal Aviation Administration. This is \$168 million below the 2013 level. The bill rejects the new passenger facility fees.
- \$1.6 billion for the Federal Railroad Administration. This is a \$34.6 million decrease from 2013. There is no funding for high-speed rail, and the bill includes reforms to ensure better use of tax dollars for Amtrak. Amtrak operations are reduced by \$126 million and the bill limits overtime for Amtrak employees.
- The Community Development Block Grant formula program is funded at \$3.03 billion, \$48 million less than the fiscal year 2013 enacted level post-sequester.

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### **Administration Position**

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The Administration [supports](#) passage of the omnibus.

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### **Cost**

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CBO [reports](#) that this legislation would result in \$1.012 trillion in fiscal year 2014 budget authority, equal to that allowed under the BBA and BCA.

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### **Possible Amendments**

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The amendment situation is unclear at this time.